

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on March 27, 2003 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 337 (3/14/03); SB 334 (3/14/03);
SB 152 (3/14/03)

Executive Action: SB 334 Be Concurred In; SB 152 Be
Concurred In As Amended; SB 101 Be
Concurred In; SB 232 Be Concurred
In; SB 431 Tabled; SB 270 Be
Concurred In As Amended

HEARING ON SB 337

Sponsor: SEN. JOE TROPILA, SD 24, Great Falls

Opening Statement by Sponsor:

SEN. TROPILA said this bill revises the civil liability of businesses and social hosts for injuries involving alcohol consumption. It establishes criteria governing liability and provides that the jury or trier of fact may consider that the consumption of alcohol rather than the sale or service is the proximate cause of any injury or damage. This bill also provided that no civil action may be brought by the person consuming the alcoholic beverage unless the consumer was a minor or was coerced. It provided that a civil action must be commenced within 2 years of the service limiting non-economic and punitive damages and allowed criminal and intentional acts of the person causing an injury to be admitted into evidence.

{Tape: 1; Side: A; Approx. Time Counter: 22 - 64}

Proponents' Testimony:

Bob Pavlovich, Butte resident, told of an incident in his bar in Butte which resulted in injury of a person and the length of time incurred to solve the problem and the amount of punitive damages which have incurred to date.

{Tape: 1; Side: A; Approx. Time Counter: 64 - 87}

Mark Staples, Montana Tavern Association, said the state is one sided in regard to alcohol liability. Because of lawsuits and outcomes of the lawsuits, there is now legislation whereby any person serving alcohol to another person who appears to be intoxicated is liable for the actions of the intoxicated person.

{Tape: 1; Side: A; Approx. Time Counter: 87 - 174}

Cathy Burwell, President, Helena Chamber of Commerce, said this legislation indicated a person should take responsibility for their actions. This is an important piece of legislation.

{Tape: 1; Side: A; Approx. Time Counter: 174 - 182}

Aidan Myhre, Montana Chamber of Commerce, said this was an important piece of legislation and they supported it.

{Tape: 1; Side: A; Approx. Time Counter: 182 - 190}

Sue Weingartner, Helena resident, said in her business they host many conventions, conferences and social events. They are very well aware of the risks and the exposure to liability that exists now under current law.

{Tape: 1; Side: A; Approx. Time Counter: 190 - 200}

Jim McCue, Downtown Helena, Inc., said they produce over 20 programs in which they utilize special-use programs. They supported this bill.

{Tape: 1; Side: A; Approx. Time Counter: 200 - 208}

Ralph Harroro, Rocky Mountain Bar, Butte, said he supported this bill because it will make it easier for tavern owners to purchase liquor liability.

{Tape: 1; Side: A; Approx. Time Counter: 208 - 220}

Bob Fletcher, Burger Bobs, Bozeman, said the price of liquor liability insurance is so expensive it is difficult to run a business that serves alcohol.

{Tape: 1; Side: A; Approx. Time Counter: 220 - 227}

John Hayes, Great Falls insurance agent, said the scope of his insurance practice is the tavern industry. They have been contemplating some programs to try to acquire carriers in the State of Montana to specialize in just the bar and tavern industry. There is no competition in this type of coverage. Five years ago there were twelve companies doing business on this coverage and now there are two.

{Tape: 1; Side: A; Approx. Time Counter: 227 - 264}

Glen Mortensen, Town Tavern, Great Falls, told of an incident in his establishment. He supported this bill.

{Tape: 1; Side: A; Approx. Time Counter: 264 - 360}

Riley Johnson, National Federation of Independent Businesses, said they supported this bill.

{Tape: 1; Side: A; Approx. Time Counter: 360 - 365}

Jacqueline Lenmark, American Insurance Association, said the cost of this insurance and its availability will be more cost effective to clients. The bill in no way limits the damages that an individual is awarded. The damages they are awarded for their

medical expenses, loss of wages and loss of income are the type of damages which are covered in this bill.

{Tape: 1; Side: A; Approx. Time Counter: 368 - 412}

Bill Johnson, Montana University System, said they supported this bill. They sponsor special events and the University System is concerned about liability issues.

{Tape: 1; Side: A; Approx. Time Counter: 412 - 420}

Opponents' Testimony:

Al Smith, Montana Trial Lawyers Association, said this legislation needed amendments. He said some of the driving-under-the-influence bills have no primary defense. Everyone knows serving alcohol is a risky business. There are potential dangers that lie out there. Businesses that serve alcohol have a high percent of liability. He then reviewed the changes in the bill.

{Tape: 1; Side: A; Approx. Time Counter: 420 - Tape: 1, Side: B; Approx. Time Counter: 108}

Informational Testimony:

Mike Barrett, Helena resident, supplied informational testimony.

{Tape: 1; Side: B; Approx. Time Counter: 108 - 136}

Questions from Committee Members and Responses:

REP. WEISS asked **SEN. TROPILA** about the \$250,000 for punitive damages for someone permanently injured for life because of an accident following an event. **SEN. TROPILA** said he did not know how to answer the question.

{Tape: 1; Side: B; Approx. Time Counter: 136 - 165}

REP. MAEDJE asked Mr. Staples if there should be more specific language regarding damages in the bill. **Mr. Staples** said he did not object to an amendment dealing with this.

{Tape: 1; Side: B; Approx. Time Counter: 165 - 210}

REP. WILSON asked Mr. Hayes about policy insurance limits. **Mr. Hayes** said there was a \$1 million limit on policies.

{Tape: 1; Side: B; Approx. Time Counter: 210 - 240}

REP. MENDENHALL asked Mr. Hayes about the percentage of gross sales spent in comparison to other industries. **Mr. Hayes** said on the property casualty side, the average cost of insurance is about 1/2 of 1% or 30% of their gross sales.

{Tape: 1; Side: B; Approx. Time Counter: 240 - 268}

REP. GALVIN-HALCRO asked Mr. Staples about inserting the word "determining" on page 1, line 3 as an amendment. Mr. Staples said, "No."

{Tape: 1; Side: B; Approx. Time Counter: 268 - 315}

Closing by Sponsor:

The Sponsor closed.

{Tape: 1; Side: B; Approx. Time Counter: 315 - 392}

HEARING ON HB 334

Sponsor: SEN. MIKE SPRAGUE, SD 6, Billings

Opening Statement by Sponsor:

SEN. SPRAGUE said this bill increases the number of representatives who may be hired by a vendor promoting the vendor's product in the state. It requires that a vacancy in the one required representative position be filled within 60 days. He also presented a chart indicating the liquor distribution system in Montana.

EXHIBIT (buh65a01)

{Tape: 1; Side: B; Approx. Time Counter: 400 - 432}

Proponents' Testimony:

Margaret Morgan, Distilled Spirits Council of the United States, explained the chart which SEN. SPRAGUE provided for the Committee.

{Tape: 1; Side: B; Approx. Time Counter: 432 - 512}

Bob Pavlovich, representing himself, said he supports the bill.

{Tape: 1; Side: B; Approx. Time Counter: 512 - 515}

Bob Lemm, Golden Triangle, Cascade County, said he supports this bill.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 15}

SEN. JOE TROPILA, SD 24, Great Falls, said he supports the bill.

{Tape: 2; Side: A; Approx. Time Counter: 15 - 22}

Opponents' Testimony: None

Informational Testimony:

Shauna Bingham, Department of Revenue, said she was available for questions from the Committee.

Questions from Committee Members and Responses: None

Closing by Sponsor:

The Sponsor closed.

{Tape: 2; Side: A; Approx. Time Counter: 22 - 86}

HEARING ON SB 152

Sponsor: SEN. VICKI COCCHIARELLA, SD 32, Missoula

Opening Statement by Sponsor:

SEN. COCCHIARELLA said this bill revises the qualifications, procedures, and fees for obtaining special permits to sell beer and table wine and it defined the term "special event." She also supplied amendments for this bill.

EXHIBIT (buh65a02)

{Tape: 2; Side: A; Approx. Time Counter: 92 - 196}

Proponents' Testimony:

Neil Peterson, Department of Revenue, defined the changes in the bill and the amendments supplied by SEN. COCCHIARELLA. He also supplied written testimony.

EXHIBIT (buh65a03)

{Tape: 2; Side: A; Approx. Time Counter: 196 - 271}

Mark Staples, Montana Tavern Association, said people will now be able to have revenue sharing between the caterer and the event sponsored. If this bill is passed, one of the solutions for some of the concerns of the public will be addressed.

{Tape: 2; Side: A; Approx. Time Counter: 271 - 353}

Bob Pavlovich, representing himself, said he supports this bill.

{Tape: 2; Side: A; Approx. Time Counter: 353 - 355}

Matt Ellis, Vice President, Missoula Osprey Professional Baseball Team, said many organizations have worked hard on this legislation. This legislation addresses many of the issues and problems confronting the Department of Revenue and local law enforcement. It provides for those organizations who have used

the current licensing process in a legal and responsible way for many years.

{Tape: 2; Side: A; Approx. Time Counter: 353 - 375}

Bill Kennedy, Yellowstone County Commissioner, said Yellowstone County has the Metro Park Facility which has sporting events such as the hockey team, horse racing and many other events. This bill is a balance and something everyone can abide by.

{Tape: 2; Side: A; Approx. Time Counter: 375 - 414}

Cathy Burwell, President, Helena Chamber of Commerce, said she could also represent all of the Chamber's across the state. They support the bill with the amendments. This bill will help the Department of Revenue issue and control the special beer and wine permit within perimeters that are more well defined and better for the non-profit organizations and Montana's communities.

{Tape: 2; Side: A; Approx. Time Counter: 414 - 446}

Jim Iverson, President, Mustang Booster Club, Billings, said he supports this bill.

{Tape: 2; Side: A; Approx. Time Counter: 446 - 456}

Tim Burton, said he supports this bill.

{Tape: 2; Side: A; Approx. Time Counter: 456 - 480; Comments: Mr. Burton did not indicate who he represented.}

Diane Jove Kuntz, Marketing Director, Downtown Great Falls Association, said they support the bill with the amendments.

{Tape: 2; Side: A; Approx. Time Counter: 480 - 515}

Jim McCue, Marketing Director, Downtown Helena, Inc., said they produce over twenty programs per year that utilizes the special-use program. It is a key part to reviving the downtown area. It is a key component of their financial stability. They utilize it to assist other programs and other nonprofit groups.

{Tape: 2; Side: B; Approx. Time Counter: 2 - 20}

Christie Blazer, Montana Beer & Wine Wholesalers, said their organization only wants to deliver beer to the appropriate licensees and this bill will allow this.

{Tape: 2; Side: B; Approx. Time Counter: 20 - 28}

Joe Mazurek, City of Great Falls, said they supports the bill for all the reasons that have been stated.

{Tape: 2; Side: B; Approx. Time Counter: 28 - 31}

Paul Reichert, Executive Director, Downtown Helena Business Improvement District, said they support the bill.

{Tape: 2; Side: B; Approx. Time Counter: 31 - 40}

Bill Johnson, Montana University System, said they support this bill.

{Tape: 2; Side: B; Approx. Time Counter: 40 - 44}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MATTHEWS asked Mr. Peterson about the catering license and how they report to the Department of Revenue. **Mr. Peterson** said within the last three months, they adopted a rule that would help in those situations. Everyone who has a catering endorsement must report on a monthly basis to the Department on the events they cater and location of the event. They have had instances where people have abused the catering endorsement. These abuses lead into an investigation.

{Tape: 2; Side: B; Approx. Time Counter: 44 - 74}

REP. MAEDJE asked Mr. Staples why there wasn't a liquor liability for caterers. **Mr. Staples** said that was discussed. The licensees agreed to purchase the liability insurance.

{Tape: 2; Side: B; Approx. Time Counter: 74 - 101}

REP. LAWSON asked Mr. Peterson how many special permits were issued in a year. **Mr. Peterson** said people could only acquire three permits per year.

{Tape: 2; Side: B; Approx. Time Counter: 101 - 149}

Closing by Sponsor:

The sponsor closed.

{Tape: 2; Side: B; Approx. Time Counter: 149 - 170}

EXECUTIVE ACTION ON SB 334

{Tape: 2; Side: B; Approx. Time Counter: 170 - 500}

Motion/Vote: **REP. BOOKOUT-REINICKE** moved that SB 334 BE CONCURRED IN. Motion carried 17-1 with REP. WEISS voting no.

REP. MATTHEWS will carry this bill on the House Floor.

EXECUTIVE ACTION ON SB 152

Motion: REP. MORGAN moved that SB 152 BE CONCURRED IN.

Motion/Vote: REP. MORGAN moved that SB 152 BE AMENDED. Motion carried 18-0. (Exhibit 2)

Motion/Vote: REP. MORGAN moved that SB 152 BE CONCURRED IN AS AMENDED. Motion carried 17-1 with REP. LAWSON voting no.

REP. MORGAN will carry this bill on the House Floor.

EXECUTIVE ACTION ON SB 101

Motion: REP. KEANE moved that SB 101 BE CONCURRED IN.

Discussion:

REPS. KEANE, BOOKOUT-REINICKE, McKENNEY supported the bill.

REP. GALLIK opposed the bill.

Vote: A roll call vote was taken. Motion carried 17-1 with REP. GALLIK voting no

REP. KEANE will carry the bill on the House Floor.

EXECUTIVE ACTION ON SB 232

Motion: REP. MENDENHALL moved that SB 232 BE CONCURRED IN.

Discussion:

REPS. HAWK, KEANE, MENDENHALL, MAEDJE, McKENNEY, BOOKOUT-REINICKE, supported the bill.

REP. GALLIK opposed the bill.

Vote: Motion that SB 232 BE CONCURRED IN carried 16-2 with REPS. GALLIK and HAWK voting no by roll call vote.

REP. KEANE will carry the bill on the House Floor.

EXECUTIVE ACTION ON SB 431

Motion: REP. BITNEY moved that SB431 BE CONCURRED IN.

Motion/Vote: REP. BITNEY moved that SB 431 BE TABLED. Motion carried 17-1 with REP. GALLIK voting no.

EXECUTIVE ACTION ON SB 270

Motion: REP. BITNEY moved that SB 270 BE CONCURRED IN.

Motion/Vote: REP. BOOKOUT-REINICKE moved that SB 270 BE AMENDED. Motion carried 18-0.

EXHIBIT (buh65a04)

Motion/Vote: REP. BOOKOUT-REINICKE moved that SB 270 BE CONCURRED IN AS AMENDED. Motion carried 18-0.

ADJOURNMENT

Adjournment: 10:45 A.M.

REP. JOE MCKENNEY, Chairman

ALBERTA STRACHAN, Secretary

JM/AS

EXHIBIT (buh65aad)